

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1357

AN ACT

AMENDING SECTIONS 38-810, 38-843 AND 38-891, ARIZONA REVISED STATUTES;
RELATING TO PUBLIC RETIREMENT PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-810, Arizona Revised Statutes, is amended to
3 read:

4 38-810. Contributions

5 A. Each member shall contribute to the fund an amount equal to seven
6 per cent of the member's gross salary. Contributions of members shall be
7 made by payroll deductions. Every member is deemed to consent to these
8 deductions. Payment of a member's compensation, less these payroll
9 deductions, constitutes a full and complete discharge and satisfaction of all
10 claims and demands by the member relating to remuneration for the member's
11 services rendered during the period covered by the payment, except with
12 respect to the benefits provided under the plan.

13 B. The fund manager's office shall be credited monthly with monies
14 collected pursuant to section 12-119.01, subsection B, paragraph 2, section
15 12-120.31, subsection D, paragraph 2 and section 12-284.03, subsection A,
16 paragraph 6. The monies credited to the fund pursuant to this subsection
17 shall be deposited in the fund on a monthly basis, and there shall be a
18 complete accounting of the determination of these monies deposited in the
19 fund.

20 C. As determined by actuarial valuations performed by the plan's
21 actuary, each employer shall make level per cent compensation contributions
22 sufficient under the actuarial valuation to meet both the normal cost plus
23 the actuarially determined amount required to amortize the unfunded accrued
24 liability over, BEGINNING JULY 1, 2005, a rolling ~~twenty-year~~ period
25 ~~beginning on July 1, 1997~~ OF AT LEAST TWENTY AND NOT MORE THAN THIRTY YEARS
26 THAT IS ESTABLISHED BY THE FUND MANAGER TAKING INTO ACCOUNT THE
27 RECOMMENDATION OF THE PLAN'S ACTUARY, except that, beginning with fiscal year
28 2006-2007, the employer contribution rate shall not be less than ~~five~~ TEN per
29 cent of salary. The monies deposited in the fund pursuant to subsection B of
30 this section shall be used to reduce the contributions required of state and
31 county employers only. Employers that entered the system under a joinder
32 agreement shall also contribute an amount equal to the unfunded accrued
33 liability for that employer. The unfunded liability for each new employer
34 shall be actuarially determined by the plan's actuary as of the effective
35 date of participation of each employer and shall be payable on the effective
36 date of participation. The minimum employer contribution that is paid and
37 that is in excess of the normal cost plus the actuarially determined amount
38 required to amortize the unfunded accrued liability as calculated pursuant to
39 this subsection shall be used to reduce future employer contribution
40 increases and shall not be used to pay for an increase in benefits that are
41 otherwise payable to members. The fund manager shall separately account for
42 these monies in the fund. AFTER THE CLOSE OF ANY FISCAL YEAR, IF THE PLAN'S
43 ACTUARY DETERMINES THAT THE ACTUARIAL VALUATION OF THE FUND CONTAINS EXCESS
44 VALUATION ASSETS AND IS MORE THAN ONE HUNDRED PER CENT FUNDED, THE FUND
45 MANAGER SHALL ACCOUNT FOR FIFTY PER CENT OF THE EXCESS VALUATION ASSETS IN A

1 STABILIZATION RESERVE ACCOUNT. AFTER THE CLOSE OF ANY FISCAL YEAR, IF THE
2 PLAN'S ACTUARY DETERMINES THAT THE ACTUARIAL VALUATION OF THE FUND HAS A
3 VALUATION ASSET DEFICIENCY AND AN UNFUNDED ACTUARIAL ACCRUED LIABILITY, THE
4 FUND MANAGER SHALL USE ANY VALUATION ASSETS IN THE STABILIZATION RESERVE
5 ACCOUNT, TO THE EXTENT AVAILABLE, TO LIMIT THE DECLINE IN THE FUND'S FUNDING
6 RATIO TO NOT MORE THAN TWO PER CENT.

7 D. The department of administration and the treasurer of each county
8 and participating city and town shall transfer to the fund manager the
9 contributions provided for in subsections A and C of this section within ten
10 working days after each payroll date. The state, county treasurers and
11 clerks of the superior court shall transfer the monies credited under
12 subsection B of this section to the fund manager on or before the fifteenth
13 day of each calendar month that follows the month in which the court fees
14 were collected. Contributions and monies credited under subsection B of this
15 section and transferred after these dates shall include a penalty equal to
16 ten per cent per annum, compounded annually, for each day that the
17 contributions or monies credited under subsection B of this section are
18 late. Delinquent payments due under this subsection, together with interest
19 charges as provided in this subsection and court costs, may be recovered by
20 action in a court of competent jurisdiction against the person or persons
21 responsible for the payments or, at the request of the fund manager, may be
22 deducted from any other monies including excise revenue taxes payable to a
23 political subdivision by any department or agency of this state. If
24 requested by the fund manager, the state, county treasurers or clerks of the
25 superior court shall transfer the monies credited under subsection B of this
26 section, in an amount determined by the fund manager, directly to the
27 qualified governmental excess benefit arrangement established pursuant to
28 section 38-803.01.

29 E. The employer shall pay the member contributions required of members
30 on account of compensation earned after August 7, 1985. The paid
31 contributions shall be treated as employer contributions for the purpose of
32 determining tax treatment under the United States internal revenue code. The
33 effective date of the employer payment shall not be before the date the
34 retirement plan has received notification from the United States internal
35 revenue service that pursuant to section 414(h) of the United States internal
36 revenue code the member contributions paid will not be included in gross
37 income for income tax purposes until the paid contributions are distributed
38 by refund or pension payments. The employer shall pay the member
39 contributions from monies established and available in the retirement
40 deduction account, which monies would otherwise have been designated as
41 member contributions and paid to the retirement plan. Member contributions
42 paid pursuant to this subsection shall be treated for all other purposes, in
43 the same manner and to the same extent, as member contributions made before
44 August 7, 1985.

1 Sec. 2. Section 38-843, Arizona Revised Statutes, is amended to read:

2 38-843. Contributions

3 A. Each employer who participates in the system on behalf of a group
4 of employees who were covered under a prior public retirement system, other
5 than the federal social security act, shall transfer all securities and
6 monies attributable to the taxes and contributions of the state other than
7 the state contribution to social security, the employer and the employees for
8 the covered group of employees under the other system, such transfer to be
9 made to the fund subject to all existing liabilities and on or within sixty
10 days following the employer's effective date. All monies and securities
11 transferred to the fund shall be credited to the employer's account in the
12 fund. A record of the market value and the cost value of such transferred
13 contributions shall be maintained for actuarial and investment purposes.

14 B. As determined by actuarial valuations reported to the employer and
15 the local board by the fund manager, each employer shall make level per cent
16 of compensation contributions sufficient under such actuarial valuations to
17 meet both the normal cost plus the actuarially determined amount required to
18 amortize the unfunded accrued liability over, BEGINNING JULY 1, 2005, a
19 rolling ~~twenty-year~~ period ~~commencing on July 1, 1997~~ OF AT LEAST TWENTY AND
20 NOT MORE THAN THIRTY YEARS THAT IS ESTABLISHED BY THE FUND MANAGER TAKING
21 INTO ACCOUNT THE RECOMMENDATION OF THE SYSTEM'S ACTUARY, except that,
22 beginning with fiscal year 2006-2007, EXCEPT AS OTHERWISE PROVIDED, the
23 employer contribution rate shall not be less than ~~five~~ EIGHT per cent of
24 compensation. FOR ANY EMPLOYER WHOSE ACTUAL CONTRIBUTION RATE IS LESS THAN
25 EIGHT PER CENT OF COMPENSATION FOR FISCAL YEAR 2006-2007, THAT EMPLOYER'S
26 CONTRIBUTION RATE SHALL BE AT LEAST FIVE PER CENT AND NOT MORE THAN THE
27 EMPLOYER'S ACTUAL CONTRIBUTION RATE. An employer shall have the option of
28 paying a higher level per cent of compensation thereby reducing its unfunded
29 past service liability. An employer shall also have the option of increasing
30 its contributions in order to reduce the contributions required from its
31 members under subsection C, except that if an employer elects this option the
32 employer shall pay the same higher level percentage contribution for all
33 members of the eligible group. During a period when an employee is on
34 industrial leave and the employee elects to continue contributions during the
35 period of industrial leave, the employer shall make the contributions based
36 on the compensation the employee would have received in the employee's job
37 classification if the employee was in normal employment status. All
38 contributions made by the employers and all state taxes allocated to the fund
39 shall be irrevocable and shall be used to pay benefits under the system or to
40 pay expenses of the system and fund. The minimum employer contribution that
41 is paid and that is in excess of the normal cost plus the actuarially
42 determined amount required to amortize the unfunded accrued liability as
43 calculated pursuant to this subsection shall be used to reduce future
44 employer contribution increases and shall not be used to pay for an increase
45 in benefits that are otherwise payable to members. The fund manager shall

1 separately account for these monies in the fund. Forfeitures arising because
2 of severance of employment before a member becomes eligible for a pension or
3 any other reason shall be applied to reduce the cost of the employer, not to
4 increase the benefits otherwise payable to members. AFTER THE CLOSE OF ANY
5 FISCAL YEAR, IF THE SYSTEM'S ACTUARY DETERMINES THAT THE ACTUARIAL VALUATION
6 OF AN EMPLOYER'S ACCOUNT CONTAINS EXCESS VALUATION ASSETS AND IS MORE THAN
7 ONE HUNDRED PER CENT FUNDED, THE FUND MANAGER SHALL ACCOUNT FOR FIFTY PER
8 CENT OF THE EXCESS VALUATION ASSETS IN A STABILIZATION RESERVE ACCOUNT.
9 AFTER THE CLOSE OF ANY FISCAL YEAR, IF THE SYSTEM'S ACTUARY DETERMINES THAT
10 THE ACTUARIAL VALUATION OF AN EMPLOYER'S ACCOUNT HAS A VALUATION ASSET
11 DEFICIENCY AND AN UNFUNDED ACTUARIAL ACCRUED LIABILITY, THE FUND MANAGER
12 SHALL USE ANY VALUATION ASSETS IN THE STABILIZATION RESERVE ACCOUNT FOR THAT
13 EMPLOYER, TO THE EXTENT AVAILABLE, TO LIMIT THE DECLINE IN THAT EMPLOYER'S
14 FUNDING RATIO TO NOT MORE THAN TWO PER CENT.

15 C. Each member, throughout the member's period of service from the
16 member's effective date of participation, shall contribute to the fund an
17 amount equal to 7.65 per cent of the member's compensation, except as
18 provided in subsection B. During a period when an employee is on industrial
19 leave and the employee elects to continue contributions during the period of
20 industrial leave, the employee shall make the employee's contribution based
21 on the compensation the employee would have received in the employee's job
22 classification if the employee was in normal employment status.
23 Contributions of members shall be required as a condition of employment and
24 membership in the system and shall be made by payroll deductions. Every
25 employee shall be deemed to consent to such deductions. Payment of an
26 employee's compensation, less such payroll deductions, shall constitute a
27 full and complete discharge and satisfaction of all claims and demands by the
28 employee relating to remuneration for the employee's services rendered during
29 the period covered by the payment, except with respect to the benefits
30 provided under the system.

31 D. Each employer shall transfer to the fund manager the employer and
32 employee contributions provided for in subsections B and C within ten working
33 days after each payroll date. Contributions transferred after that date
34 shall include a penalty of ten per cent per annum, compounded annually, for
35 each day the contributions are late, such penalty to be paid by the
36 employer. Delinquent payments due under this subsection, together with
37 interest charges as provided in this subsection, may be recovered by action
38 in a court of competent jurisdiction against an employer liable for the
39 payments or, at the request of the fund manager, may be deducted from any
40 other monies including excise revenue taxes payable to such employer by any
41 department or agency of this state.

42 Sec. 3. Section 38-891, Arizona Revised Statutes, is amended to read:

43 38-891. Employer and member contributions

44 A. As determined by actuarial valuations reported to the employers and
45 the local boards by the fund manager, each employer shall make level per cent

1 of salary contributions sufficient under the actuarial valuations to meet
 2 both the normal cost plus the actuarially determined amount required to
 3 amortize the unfunded accrued liability over, BEGINNING JULY 1, 2005 a
 4 rolling ~~twenty year~~ period ~~commencing on July 1, 1997~~ OF AT LEAST TWENTY AND
 5 NOT MORE THAN THIRTY YEARS THAT IS ESTABLISHED BY THE FUND MANAGER TAKING
 6 INTO ACCOUNT THE RECOMMENDATION OF THE PLAN'S ACTUARY, except that, beginning
 7 with fiscal year 2006-2007, EXCEPT AS OTHERWISE PROVIDED, the employer
 8 contribution rate shall not be less than ~~five~~ SIX per cent of salary. FOR
 9 ANY EMPLOYER WHOSE ACTUAL CONTRIBUTION RATE IS LESS THAN SIX PER CENT OF
 10 SALARY FOR FISCAL YEAR 2006-2007, THAT EMPLOYER'S CONTRIBUTION RATE SHALL BE
 11 AT LEAST FIVE PER CENT AND NOT MORE THAN THE EMPLOYER'S ACTUAL CONTRIBUTION
 12 RATE. An employer may pay a higher level per cent of salary thereby reducing
 13 its unfunded past service liability. All contributions made by the employers
 14 and all state taxes allocated to the fund shall be irrevocable and shall be
 15 used to pay benefits under the plan or to pay expenses of the plan and fund.
 16 The minimum employer contribution that is paid and that is in excess of the
 17 normal cost plus the actuarially determined amount required to amortize the
 18 unfunded accrued liability as calculated pursuant to this subsection shall be
 19 used to reduce future employer contribution increases and shall not be used
 20 to pay for an increase in benefits that are otherwise payable to members. The
 21 fund manager shall separately account for these monies in the fund.
 22 Forfeitures arising because of severance of employment before a member
 23 becomes eligible for a pension or for any other reason shall be applied to
 24 reduce the cost to the employer, not to increase the benefits otherwise
 25 payable to members. AFTER THE CLOSE OF ANY FISCAL YEAR, IF THE PLAN'S
 26 ACTUARY DETERMINES THAT THE ACTUARIAL VALUATION OF AN EMPLOYER'S ACCOUNT
 27 CONTAINS EXCESS VALUATION ASSETS AND IS MORE THAN ONE HUNDRED PER CENT
 28 FUNDED, THE FUND MANAGER SHALL ACCOUNT FOR FIFTY PER CENT OF THE EXCESS
 29 VALUATION ASSETS IN A STABILIZATION RESERVE ACCOUNT. AFTER THE CLOSE OF ANY
 30 FISCAL YEAR, IF THE PLAN'S ACTUARY DETERMINES THAT THE ACTUARIAL VALUATION OF
 31 AN EMPLOYER'S ACCOUNT HAS A VALUATION ASSET DEFICIENCY AND AN UNFUNDED
 32 ACTUARIAL ACCRUED LIABILITY, THE FUND MANAGER SHALL USE ANY VALUATION ASSETS
 33 IN THE STABILIZATION RESERVE ACCOUNT FOR THAT EMPLOYER, TO THE EXTENT
 34 AVAILABLE, TO LIMIT THE DECLINE IN THAT EMPLOYER'S FUNDING RATIO TO NOT MORE
 35 THAN TWO PER CENT.

36 B. Each member shall contribute eight and one-half per cent of the
 37 member's salary to the retirement plan. Member contributions shall be made
 38 by payroll deduction. Continuation of employment by the member constitutes
 39 consent and agreement to the deduction of the applicable member contribution.
 40 Payment of the member's salary less the deducted contributions constitutes
 41 full and complete discharge and satisfaction of all claims and demands of the
 42 member relating to salary for services rendered during the period covered by
 43 the payment.

44 C. Each participating employer shall cause the member contributions to
 45 be deducted from the salary of each member. The deducted member

1 contributions shall be paid to the retirement plan within five working days
2 and shall be credited to the member's individual account.

3 D. During a period when an employee is on industrial leave and the
4 employee elects to continue contributions during the period of industrial
5 leave, the employer and employee shall make contributions based on the salary
6 the employee would have received in the employee's job classification if the
7 employee was in normal employment status.

8 E. The local board of the state department of corrections or the local
9 board of the department of juvenile corrections may specify a position within
10 that department as a designated position if the position is filled by an
11 employee who has at least five years of credited service under the plan, who
12 is transferred to temporarily fill the position and who makes a written
13 request to the local board to specify the position as a designated position
14 within ninety days of being transferred. On the employee leaving the
15 position, the position is no longer a designated position.

16 F. The local board of the state department of corrections or the local
17 board of the department of juvenile corrections may specify a designated
18 position within the department as a nondesignated position if the position is
19 filled by an employee who has at least five years of credited service under
20 the Arizona state retirement system and who makes a written request to the
21 local board to specify the position as a nondesignated position within ninety
22 days of accepting the position. On the employee leaving the position, the
23 position reverts to a designated position.

24 G. If the aggregate computed employer contribution rate that is
25 calculated pursuant to subsection A is less than ~~five~~ SIX per cent of salary,
26 beginning on July 1 of the following fiscal year the member contribution rate
27 prescribed in subsection B is permanently reduced by an amount that is equal
28 to the difference between ~~five~~ SIX per cent and the aggregate computed
29 employer contribution rate. Notwithstanding this subsection, the member
30 contribution rate shall not be less than 7.65 per cent of the member's
31 salary.

32 Sec. 4. Emergency

33 This act is an emergency measure that is necessary to preserve the
34 public peace, health or safety and is operative immediately as provided by
35 law.